

Ordinance No. 5-05      ORDINANCE: To Grant Text Amendment Application No. TXT2004-00213, as amended, Twinbrook Commons, LLC, Applicant

WHEREAS, Twinbrook Commons, LLC, c/o Holland and Knight, LLP, 3 Bethesda Metro Center, Suite 800, Bethesda, Maryland 20814, filed Text Amendment Application TXT2004-00213, for the purpose of providing an alternative optional method of development within the RPC zones for large tracts of land located in close proximity to a metro station entrance; and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its meeting of August 2, 2004, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its December 15, 2004, meeting and recommended approval, as set forth in a memorandum dated December 16, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on January 10, 2005, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on January 10, 2005, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville; and

WHEREAS, the Mayor and Council has determined that it is necessary and appropriate to correct a typographical error and to make certain other clarifying changes to the use permit and optional method approval procedures applicable in the Rockville Pike Corridor Area, such changes being related to the effective implementation of the optional method of development in the RPC Zone.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2004-00213 be, and the same is hereby, granted, in the form set forth below.

SECTION 1. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning” be amended by amending Section 25-311, table of “Development Standards for Rockville Pike Corridor Area” so as to add a new column to indicate the maximum residential density in the RPC and RPR zones, including a new footnote (9) as follows:

RPC – 60 dwelling units per acre<sup>(9)</sup>

RPR – 60 dwelling units per acre

<sup>(9)</sup> Residential density may be increased to 66 dwelling units per acre on properties developed under Section 25-710.28, Twinbrook Metro Performance District Optional Method of Development.

SECTION 2. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIV entitled “Rockville Pike Corridor Area,” Division 2, entitled “Special Requirements Relating to Use and Development,” be amended by adding a new Section 25-710.28, “Twinbrook Metro Performance District Optional Method of Development” to read as follows:

**Sec. 25-710.28. Twinbrook Metro Performance District Optional Method of Development.**

(a) Use of the Twinbrook Metro Performance District Optional Method of Development is a voluntary option and an alternative to Section 25-710.27 for large tracts of land in the RPC Zone located within close proximity to a WMATA Metro Station, where multiple buildings are planned to be developed over a long period of time. The Twinbrook Metro Performance District Optional Method is intended as an alternative to the optional method of development set forth in Section 25-710.27. Submission of a preliminary development plan application under the Twinbrook Metro Performance District optional method commits the applicant to a greater degree of development control authority by the Mayor and Council. The Mayor and Council may grant additional building height and flexibility where a development complies with more extensive standards of urban design review and traffic impact review and mitigation and provision for desired land uses. Any development that receives approval may exceed the normal building height and F.A.R. specified in Table III contained in section 25-311 of this chapter, provided that in no event shall the resulting building exceed the maximum height and F.A.R. specified in this section.

(b) Developments submitted for approval under the Twinbrook Metro Performance District optional method of development shall be subject to the following additional modifications and requirements:

(1) A minimum area of ~~[[ten (10)]]~~ twenty (20) acres shall be required for applications under the Twinbrook Metro Performance District optional method;

(2) All land within the development area must be located within 1,200 feet of a main pedestrian portal of a WMATA Metro Station;

(3) All applicants shall prepare and submit with the preliminary development plan application a traffic impact study in conformance with the City's "Comprehensive Transportation Review" methodology, or its successor, and shall provide mitigation of traffic impacts as may be acceptable to the Mayor and Council.

(4) All buildings abutting off-site residential land developed with single-family detached dwelling units shall provide a minimum side and rear set back of one (1) foot for every three (3) feet of height;

(5) The area developed under the Twinbrook Metro Performance District optional method must contain a mix of uses, including residential and commercial components. Not less than ten percent (10%) of the ground floor space within the development plan area that has street frontage must be devoted to retail sales and/or personal services. Nothing herein shall preclude parking structures from occupying ground floor space, provided that at least 70 percent of the street frontages of all of the parking facilities within the development plan area are concealed by a separate occupiable building. For purposes of this subsection, the 70 percent (70%) calculation shall be based on the total street frontage of all parking structures. The Mayor and Council may authorize modification to this use requirement where its strict application would result in practical difficulty or unnecessary hardship to the owners. Developments

approved under the Twinbrook Metro Performance District optional method shall not be subject to the use requirements of Section 27-710.21;

(6) All developments shall provide a system of public easements or rights-of-way for public pedestrian ways linking elements of the development with neighboring properties and the WMATA Metro Station;

(7) The Mayor and Council may authorize additional building heights up to the following maximum heights: (a) commercial building height of one hundred ten (110) feet, except that a maximum of one hundred seventy (170) feet may be permitted for a commercial building located at least 300 feet from a single family detached residential property; and (b) residential building height of one hundred forty-five (145) feet; except that a maximum of one hundred seventy (170) feet may be permitted for a residential building located at least 300 feet from a single family detached residential property.

(8) The area within all public streets and pedestrian ways, whether dedicated to the City or placed in an easement, may be included in the net development area of the development for the purpose of calculating the allowable F.A.R. and residential density;

(9) Approved development densities may be shifted within the gross tract area of the development, but in no event shall the commercial F.A.R. as calculated based on the gross tract area exceed 1.0 F.A.R. or the residential density exceed sixty-six (66) dwelling units per acre;

(10) Approval of development under the Twinbrook Metro Performance District optional method shall be in accord with the approval procedures and requirements set forth in Division 3 of this Article XIV.

(11) The office and retail parking space quantity requirements governing the Rockville Pike Corridor Area as set forth in Section 25-710.27 (9) (a) and (b) shall apply. The parking space requirements for all other uses shall be as provided for in Section 25-395, except the minimum parking space requirements for residential uses for multi-family dwelling units shall be as follows: For each dwelling unit with one separate bedroom or less, one (1) space; for each dwelling unit with 2 separate bedrooms, one and one quarter (1¼) spaces; for each dwelling unit with 3 or more separate bedrooms, two (2) spaces. In addition to the parking requirements set forth herein, the total number of parking spaces for any development under this section shall be computed in accordance with the shared parking requirements set forth in Section 25-693(2);

(12) Parking required in connection with the approval of a Use Permit need not be located within the boundaries of the area covered by the subject Use Permit but must be located within the area covered by the approved preliminary development plan;

(13) All developments shall be subject to the parking design standards set forth in Article IX, Division 2, except that the parking space design standards for parking spaces

within a WMATA controlled garage intended for Metro Station commuter parking shall be governed by the design standards approved and adopted by WMATA.

(14) Developments shall be so planned as to minimize the impacts of shadows on existing surrounding off-site single-family residential dwelling units;

(15) All developments that abut Rockville Pike shall provide a landscaped berm, walkway, splash block treatments and building landscaping along the Rockville Pike frontage in substantial accordance with the Rockville Pike Streetscape guidelines contained in the Plan.

(16) The Mayor and Council may, in connection with the approval of a preliminary development plan, approve housing for the elderly and physically handicapped. Such approval by the Mayor and Council shall eliminate the requirement to obtain special exception approval for housing for the elderly and physically handicapped as provided for by Section 25-296.

SECTION 3. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIV entitled “Rockville Pike Corridor Area,” Division 3, entitled “Approval Procedures,” be amended by amending Section 25-710.30, “Optional method approval” and Section 25-710.31, “Use Permit Approval” to read as follows:

Division 3. Approval Procedures

**Sec. 25-710.30. Optional method approval.**

(a) The provisions of this section shall apply to the approval of developments under the optional method of development pursuant to section 25-710.27 and to the approval of developments under the Twinbrook Metro Performance District optional method of development pursuant to section 25-710.28.

[(a)] (b) Preliminary Development Plan. All land developed in accordance with [the] an optional method shall be included in a Preliminary Development Plan approved by the Mayor and Council. The Preliminary Development Plan shall remain in full force and effect for the duration of the subdivision or development of the land, but it may be amended from time to time with approval of the Mayor and Council. Once approved, and except as amended by the Mayor and Council, a Preliminary Development Plan shall control the development of all of the property included in the Preliminary Development Plan. Successors in title to the applicant of a Preliminary Development Plan shall be bound in the same manner and to the same extent as the applicant once the Preliminary Development Plan is approved by the Mayor and Council. Approval of a Preliminary Development Plan also

constitutes approval of a Preliminary Subdivision Plan in accordance with Article XV of this chapter.

[(b)] (c) The Mayor and Council may authorize optional method development only if it determines that the proposed development is in substantial accordance with the Plan, and with the intent and purpose of this article, and is compatible with adjacent existing and permitted uses and developments. In making such determination, the Mayor and Council shall consider:

- (1) Provisions made for traffic impact mitigation, open space, pedestrian circulation, and environmental amenities;
- (2) The particular dimensions, grade and orientation of the site, and the location and height of existing and proposed development in the [Town Center Planning] Rockville Pike Corridor Area;
- (3) The finding and requirements necessary for the approval of a preliminary plan under Article XV of this chapter.

[(c)] (d) All requests for optional method approval shall be accompanied by the material and information the Mayor and Council requires to make a decision and accompanied by such fee as is determined by resolution of the Council.

[(d)] (e) The fact that an application complies with all of the specific requirements and purposes of the applicable zone or the article shall not be deemed to create a presumption that the development shall be approved.

[(e)] (f) *Procedures following filing of Preliminary Development Plan application.*

The procedures governing the filing of a Preliminary Development Plan shall be controlled by section 25-121 (posting of signs); 25-122 (written notice); 25-123 (establishment of hearing date); and 25-124 (referral of application to Planning Commission); and a public worksession with the Mayor and Council, Planning Commission, and the applicant will be held on the Preliminary Development Plan prior to, or shortly following submission of an application.

### **Sec. 25-710.31. Use permit approval.**

All developments in the Rockville Pike Corridor Area shall require approval of a use permit application in accordance with sections 25-192 and 25-193, except that the following additional requirements shall apply in the Rockville Pike Corridor Area:

- (1) Subject to the findings made by the Mayor and Council in connection with the approval of any Preliminary Development Plan, the [The] Planning Commission shall approve a use permit application only if the Commission finds:

- a. That the proposed development will be consistent with the Plan;
  - b. That the proposed development will be consistent with the approved Preliminary Development Plan, if applicable;
  - c. That the proposed development will be consistent with the intent and purpose of this article; and
  - d. That the proposed development will not overburden existing public services, including water, sanitary sewer, public roads, schools, storm drainage and other public improvements.
- (2) All developments in the RPR zone and all optional method developments in the RPC zone shall comply with the urban design review process for the Rockville Pike Corridor Area as contained in the Plan.
- (3) In approving a use permit application, the Planning Commission may impose such conditions, not inconsistent with the findings and conditions contained in any approved Preliminary Development Plan, [in connection therewith] as will, in its opinion, assure that the improvement and development will conform to the requirements, including, but not limited to:
- a. provisions for the protection of adjacent property;
  - b. access and design for off-street parking and loading; and
  - c. provisions for community facilities.

Note: [Brackets] indicate material deleted

Underlining indicates material added

[[Double brackets]] indicate material deleted after introduction

Double underlining indicates material added after introduction

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I hereby certify that the foregoing is a true and correct copy of an

Ordinance adopted by the Mayor and Council at its meeting of April 4, 2005.

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Claire F. Funkhouser, CMC, City Clerk